

ADMINISTRATIVE POLICY



STATE OF WASHINGTON DEPARTMENT OF LABOR AND INDUSTRIES EMPLOYMENT STANDARDS

**TITLE: PAYMENT OF FINAL WAGES AND
DEDUCTIONS UPON TERMINATION**

NUMBER: ES.B.1

**CHAPTER: RCW 49.48.010
WAC 296-126**

**REPLACES: ES-002
ES-021**

ISSUED: 1/2/2002

ADMINISTRATIVE POLICY DISCLAIMER

This policy is designed to provide general information in regard to the current opinions of the Department of Labor & Industries on the subject matter covered. This policy is intended as a guide in the interpretation and application of the relevant statutes, regulations, and policies, and may not be applicable to all situations. This policy does not replace applicable RCW or WAC standards. If additional clarification is required, the Program Manager for Employment Standards should be consulted.

This document is effective as of the date of print and supersedes all previous interpretations and guidelines. Changes may occur after the date of print due to subsequent legislation, administrative rule, or judicial proceedings. The user is encouraged to notify the Program Manager to provide or receive updated information. This document will remain in effect until rescinded, modified, or withdrawn by the Director or his or her designee.

RCW 49.48.010 sets forth the time period for payment of wages due to employees who have ceased employment, and sets forth what an employer can legally deduct from the termination wage of the employee. RCW 49.48.010 applies only when an employee has ceased employment.

Payment of wages due to employee ceasing work. RCW 49.48.010 states, "When any employee shall cease to work for an employer, whether by discharge or by voluntary withdrawal, the wages due him on account of his employment shall be paid to him at the end of the established pay period."

For purposes of this administrative policy and enforcement, the term "at the end of the established pay period" means all wages earned and owing are due no later than the next regular scheduled pay date following the date of the employee's discharge or voluntary withdrawal.

Authorized deductions or withholdings. RCW 49.48.010 provides that deductions from termination wages may be made only when:

1. Required by state or federal law, or

2. When specifically agreed upon either orally or in writing between employee and employer; or
3. For medical, surgical or hospital care or service.

The “agreed-upon” deductions, as set forth in RCW 49.48.010(2), apply to termination wages only and do not apply to wages earned by employees who are currently employed.

While certain deductions are allowable under RCW 49.48.010, unless deductions are taken pursuant to RCW 49.52.060 (required by state or federal law or for a lawful purpose for the employee’s benefit), no deduction can result in the employee being paid less than the state minimum wage.

See ES.B.2 and RCW 49.52.060 for further explanation of the conditions under which an employer may withhold or divert a portion of an employee’s wages when employment is ongoing.

“Required by state or federal law” is interpreted to mean tax deductions that an employer is required to deduct under state and federal statutes. For example, deductions for the employee’s share of Social Security and state workers’ compensation premium¹, other federal, state or local taxes, and state ordered garnishments². No deduction can be made for any tax which the law requires to be borne by the employer³. The employee’s consent is not required for deductions required by state or federal law.

If the employer is required by court order to pay monies from wages to a third party under garnishment, wage attachment, trustee process or bankruptcy proceeding, deductions from wages are permissible as long as neither the employer nor anyone acting on its behalf derives any profit or benefit from the transaction.

“Specifically agreed upon orally or in writing by the employee and employer” is interpreted to mean that there must be a specific authorization *in advance of the deduction* by the employee and employer to make such a deduction from termination wages. Agreements may be made between the employee and

¹ RCW 51.16.140 regulates workers’ compensation premiums and allows an employer to deduct one-half of the medical aid premium plus one-half of the supplemental fund premium.

² RCW 6.27.095 provides that the garnishee of a writ for a continuing lien on earnings may deduct a processing fee from the remainder of the obligor’s earnings after withholding the required amount under the writ. The processing fee may not exceed twenty dollars for the first answer and ten dollars at the time the garnishee submits the second answer.

³ RCW 50.24.010 regulates unemployment compensation. It is unlawful for an employer to deduct any wages for unemployment compensation premiums. This statute clearly requires the employer to pay such premiums in their entirety.

employer any time during employment, provided it's done in advance of taking the deduction.

Company policies containing provisions for deductions or forfeiture of wages may constitute a specifically agreed upon deduction from wages within the meaning of RCW 49.48.010(2), providing it can clearly be shown the provision for the deduction was a part of the policies and the employee had knowledge of the policies, understood the deduction, and agreed to the deduction. It is implied and understood that an employee will obey the lawful rules, order, and instructions of the employer insofar as they are reasonable and not merely arbitrary or capricious.

Before any employee can be deemed to have been bound by a rule or policy, the employer has the burden of proof in showing the employee was cognizant of its terms, received a copy of the rule or policy upon entering employment, and that the employee entered into the employment relationship without protesting the terms set forth in any rule or policy.

There must be a specific authorization to deduct contained in any rule or policy of an employer. Provisions that outline the responsibilities of an employee without reference to charges for failure to fulfill those responsibilities do not constitute a specifically agreed upon deduction from wages within the meaning of RCW 49.48.010(2).

The various deductions allowed under WAC 296-126-025 are not to the benefit of the employee and, therefore, may be taken from termination wages only. WAC 296-126-025 states, in part, that "Except as otherwise provided by law, employers cannot deduct from an employee's wage . . ." "Except as otherwise provided by law," means that relevant statutes, RCW 49.48.010 and 49.52.060, supercede WAC 296-126-025.

RCW 49.48.010 sets forth the time period for payment of wages due to employees who have ceased employment and sets forth what an employer can legally deduct from the termination wages of the employee. RCW 49.48.010 does not contain the "accruing to the benefit of such employee" requirement. Therefore, because the deductions allowable under WAC 296-126-025 do not accrue to the benefit of the employee, such deductions can be taken only from termination wages. This is assuming that the other requirements of RCW 49.48.010 are met, e.g., both employer and employee agree upon the deduction orally or in writing.